

2015

CHAPTER 20

An Act to amend *The Saskatchewan Pension Plan Act* and to repeal
The Saskatchewan Pension Plan Amendment Act, 2013

(Assented to May 14, 2015)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Saskatchewan Pension Plan Amendment Act, 2015*.

S.S. 1986, c.S-32.2 amended

2 *The Saskatchewan Pension Plan Act* is amended in the manner set forth in this Act.

New section 2

3 Section 2 is repealed and the following substituted:

“Interpretation

2 In this Act:

- (a) **‘board’** means the Saskatchewan Pension Plan Board of Trustees continued pursuant to section 4;
- (b) **‘fund’** means the Saskatchewan Pension Plan Fund established pursuant to section 7;
- (c) **‘life annuity’** means an annuity that continues for the duration of the life of the annuitant, whether or not after the life of the annuitant it is continued to some other person;
- (d) **‘minister’** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (e) **‘normal form of pension’** means an annuity under which payments are made during the lifetime of the annuitant and terminate on the annuitant’s death;
- (f) **‘participant’** means a person who has contributed to the plan or has applied to participate in the plan in the form specified by the board;
- (g) **‘pension benefit’** means the moneys pursuant to this Act that a participant is entitled to receive on retirement or to which any other person is entitled by virtue of the participant’s death after retirement;
- (h) **‘plan’** means the Saskatchewan Pension Plan established pursuant to section 3;

(i) **‘prescribed pension benefit’** means a pension benefit that is prescribed in the regulations as a pension benefit that may be purchased or provided;

(j) **‘spouse’** means:

(i) a person who is legally married to a participant; or

(ii) if a participant is not married, a person with whom the participant is cohabiting as a spouse at the relevant time and who has been cohabiting continuously with the participant as his or her spouse for at least one year before the relevant time”.

New section 4

4 Section 4 is repealed and the following substituted:

“Board

4(1) The Saskatchewan Pension Plan Board of Trustees is continued.

(2) The board consists of not less than three members appointed by the Lieutenant Governor in Council.

(3) At least one-third of the members appointed pursuant to subsection (2) must be participants in the plan, and each of those members must have contributed to the fund with respect to the year in which, or the year previous to the year in which, he or she was appointed.

(4) The Lieutenant Governor in Council shall designate a member of the board to be the chairperson.

(5) If the chairperson is absent or unable to act, or the office of chairperson is vacant, the members of the board may designate another member of the board to act as chairperson.

(6) Subject to any regulations, the board may determine the procedures for carrying out its functions and duties”.

Section 5 amended

5 Subsection 5(2) is amended:

(a) by adding the following clause after clause (e):

“(e.1) provide prescribed pension benefits that may be purchased by participants with amounts standing to their credit in the fund”;

(b) by repealing clause (g) and substituting the following:

“(g) establish policies for:

(i) the investment of the assets of the fund;

(ii) the calculation and allocation of revenues accruing to the fund; and

(iii) the calculation of the amounts in the fund standing to the credit of a participant”; **and**

(c) by repealing clause (h).

New section 6

6 Section 6 is repealed and the following substituted:**“Decision of board final**

6 The board may determine any question respecting the application, interpretation or intent of a provision of this Act or the regulations, and the decision of the board is final”.

Section 7 amended

7(1) Subsection 7(3.1) is repealed and the following substituted:

“(3.1) Subject to the approval of the Lieutenant Governor in Council, the board may:

- (a) establish one or more specialty funds by allocating part of the assets of the fund to the amounts standing to the credit of participants who elect to participate in a specialty fund; and
- (b) designate one of the specialty funds as the default fund in which participants who have not made an election with respect to participation in a specialty fund shall participate.

“(3.11) The board may:

- (a) calculate the amounts in a specialty fund standing to the credit of participants who participate in the specialty fund, having regard to the value of the assets allocated to the specialty fund pursuant to subsection (3.1) and the revenue and other earnings accruing from the investment of the assets allocated to the specialty fund;
- (b) designate categories of participants who may participate in a specialty fund;
- (c) designate categories of investments in which the assets allocated with respect to participants who participate in a specialty fund will be invested;
- (d) permit participants to elect to participate in one or more specialty funds; and
- (e) establish different investment policies for assets allocated to each specialty fund”.

(2) Subsection 7(3.2) is repealed and the following substituted:

“(3.2) If a specialty fund has been established pursuant to subsection (3.1) for the purpose of establishing annuities, any amount by which the liabilities of that fund exceed the assets of that fund is a charge on, and payable out of, the general revenue fund”.

(3) Subsection 7(5) is repealed and the following substituted:

“(5) If the board considers it appropriate to do so, the board may require a participant to pay a fee with respect to administrative costs in the amount prescribed by the board”.

Section 8 amended**8(1) Subsection 8(2) is repealed and the following substituted:**

“(2) No person is eligible to contribute to the fund:

- (a) in the years after the year in which, pursuant to the *Income Tax Act* (Canada), the date occurs on which retirement benefits must commence to be paid to the participant; or
- (b) subject to subsection (2.2), who is in receipt of pension benefits”.

(2) Subsection 8(2.2) is amended by striking out “made pursuant to clause 21(1)(n.1)”.

(3) Subsections 8(3) to (4) are repealed.

Section 12 amended

9(1) Subsection 12(1) is amended by striking out “subsection 13(3), sections 14, 16 and 19.1 and any regulation made pursuant to clause 21(1)(m)” and substituting “subsection 13(5) and sections 14, 16 and 19.1”.

(2) Subsection 12(2) is amended by adding “in the relevant agreement” after “terms and conditions that may be specified”.

New section 12.2

10 Section 12.2 is repealed and the following substituted:

“Transfers into fund

12.2(1) Subject to subsection (2) and the regulations, a participant may transfer into the fund moneys from other pension plans of which the participant is a member or moneys from any of the participant’s retirement savings plans that are registered pursuant to the *Income Tax Act* (Canada).

(2) A participant shall not transfer into the fund any locked-in moneys if the retirement date associated with those moneys is earlier than the date on which he or she attained the age of 55 years.

(3) For the purposes of this section, money is locked-in if its withdrawal or surrender is prohibited”.

New section 13

11 Section 13 is repealed and the following substituted:

“Payment on retirement

13(1) Subject to subsections (2) to (5), a participant who applies to the board is entitled to retire and may elect to receive a life annuity or a prescribed pension benefit provided by the amount standing to the credit of the participant.

(2) A participant may retire on or after attaining the age of 55 years.

(3) A participant who has a spouse is required to receive a life annuity or a prescribed pension benefit that provides for a benefit to be paid to the spouse after the participant’s death that is not less than 60% of the life annuity or prescribed pension benefit to which the participant would have been entitled, unless the spouse provides a written waiver of the annuity or benefit in a form acceptable to the board.

(4) If a participant has not retired before the date on which, pursuant to the *Income Tax Act* (Canada), retirement benefits must commence to be paid to the participant, the participant is deemed to have retired on December 31 of the year in which the date occurs and the board shall provide the participant with:

- (a) a life annuity; or
- (b) subject to any terms and conditions prescribed in the regulations, a prescribed pension benefit.

(5) If the monthly amount of a life annuity payable to a participant is less than the amount prescribed in the regulations for the purposes of this subsection, the amount standing to the credit of the participant may be paid to the participant, on the request of the participant, in one lump sum”.

Section 14 amended

12 Subsection 14(1) is amended by striking out “Where a participant retires” and substituting “If a participant retires”.

Section 15 repealed

13 Section 15 is repealed.

Section 16 amended

14(1) Subsection 16(1) is repealed and the following substituted:

“(1) Subject to subsections (1.2) and (1.3), if a participant dies before becoming entitled to any pension benefits, the total amount of all contributions made to the fund by or on behalf of the participant, together with the accrued earnings on that amount, must be refunded to the designated beneficiary or beneficiaries of the participant.

“(1.1) The designation of a participant’s beneficiary:

- (a) must be in writing in a form acceptable to the board; and
- (b) may be revoked by the participant at any time before the participant applies for a pension benefit.

“(1.2) Subject to subsection (1.4), if a participant has a spouse, the participant’s beneficiary is deemed be the spouse unless the spouse provides a written waiver of the spouse’s entitlement to a benefit, or of a portion of the spouse’s entitlement to a benefit, in a form acceptable to the board.

“(1.3) If a participant has no deemed beneficiary and has not made a designation, the participant’s beneficiary is deemed to be the participant’s estate.

“(1.4) Subsection (1.2) only applies with respect to a participant:

- (a) whose application to participate in the plan is completed on or after the day on which section 1 of *The Saskatchewan Pension Plan Amendment Act, 2015* comes into force; or
- (b) who transfers moneys into the fund pursuant to section 12.2 on or after the day on which section 1 of *The Saskatchewan Pension Plan Amendment Act, 2015* comes into force, regardless of the date of completion of the participant’s application to participate in the plan”.

(2) Subsection 16(2) is amended by striking out “Where a designated beneficiary predeceases the participant” and substituting “If a designated beneficiary predeceases the participant”.

(3) Clause 16(3)(a) is repealed and the following substituted:

“(a) is a participant who has not retired pursuant to subsection 13(1) and has not been deemed to have retired pursuant to subsection 13(4)”.

(4) Clause 16(4)(a) is repealed and the following substituted:

“(a) is a participant who has not retired pursuant to subsection 13(1) and has not been deemed to have retired pursuant to subsection 13(4)”.

Section 19 amended

15(1) Subsection 19(1) is repealed and the following substituted:

“(1) Notwithstanding anything to the contrary in any other Act, but subject to subsections (2) to (4) and section 19.1, no amount standing to the credit of a participant and no pension benefit provided by an amount standing to the credit of a participant shall be transferred, assigned, charged, anticipated, seized, attached, given as security or surrendered, and any transaction purporting to transfer, assign, charge, anticipate, seize, attach, give as security or surrender any such moneys is void”.

(2) Subsection 19(3) is amended by striking out “Where an amount has been attached” and substituting “If an amount has been attached”.

(3) Subsection 19(4) is amended by striking out “Where an amount has been attached” and substituting “If an amount has been attached”.

New sections 19.1, 19.2 and 19.3

16 Section 19.1 is repealed and the following substituted:

“Division on breakdown of spousal relationship

19.1(1) On the breakdown of the spousal relationship of a participant, the board may, in accordance with this section, divide the amount standing to the credit of the participant or the monthly annuity or other prescribed pension benefit of the participant in accordance with this section.

(2) Subject to subsection (3), the amount standing to the credit of, or the monthly annuity or other prescribed pension benefit payable to, the participant is to be divided:

(a) if a court has made an order for the division of family property pursuant to *The Family Property Act*, in accordance with that order; or

(b) if the participant and the participant’s spouse have entered into an agreement to divide their property that is an interspousal contract within the meaning of *The Family Property Act*, in accordance with that agreement.

(3) If a division of the amount standing to the credit of a participant or of the monthly annuity or other prescribed pension benefit of a participant is to be made pursuant to subsection (2), the board may require the spouse to apply to participate in the plan by completing an application in the form specified by the board.

(4) On the written request of the participant, the participant's spouse or the lawyer of either of them, the board shall release to the person making the request information respecting:

- (a) the amount standing to the credit of the participant; or
- (b) the monthly annuity or other prescribed pension benefit of the participant.

(5) Neither the board nor the fund is liable to any person by reason of having complied with an order or agreement mentioned in this section.

“Objection to division

19.2(1) Except where an order or agreement mentioned in subsection 19.1(2) has been filed with the board by the participant and the spouse or former spouse jointly, the board shall give a notice in writing to the participant that an order or agreement has been filed.

(2) Unless the board receives a notice in writing within 30 days after providing the notice mentioned in subsection (1) that the participant objects to the division on one of the grounds set out in subsection (3), the board shall comply with the order or agreement.

(3) The grounds for an objection pursuant to subsection (2) are:

- (a) that the order or agreement has been varied or is of no force or effect;
- (b) that the terms of the order or agreement have been or are being satisfied by other means;
- (c) that proceedings have been commenced in a court of competent jurisdiction in Canada to appeal or review the order or to challenge the terms of the agreement.

(4) A participant who submits a notice of objection pursuant to subsection (2) shall include with the notice documentary evidence to establish the grounds for objection.

(5) If a notice of objection pursuant to subsection (2) is received by the board, the board may apply to the Court of Queen's Bench for direction and, subject to subsection (6), the court may make any order that it considers appropriate in the circumstances.

(6) No order as to costs is to be made against the board or the fund.

“Amounts payable to persons who cannot be located

19.3(1) If an amount becomes payable out of the fund to any person who cannot be located, the board may pay the amount into the general revenue fund and, subject to subsection (3), the amount becomes the property of the Crown.

(2) Before paying any amount into the general revenue fund pursuant to subsection (1), the board shall take reasonable steps to locate the person to whom the amount is payable.

(3) If a person claims to be entitled to any amount paid into the general revenue fund pursuant to subsection (1), the Minister of Finance may, on the recommendation of the board, pay to the claimant the amount claimed or any portion of that amount specified by the Minister of Finance, together with interest at any rate that the Minister of Finance may specify”.

New section 20.1

17 Section 20.1 is repealed and the following substituted:

“Audit

20.1 The Provincial Auditor or any other auditor or firm of auditors that the board may appoint shall audit the accounts and financial statements of the board annually and at any other time requested by the Lieutenant Governor in Council”.

Section 21 amended

18(1) Subsection 21(1) is amended:

- (a) by repealing clause (a.1);
- (b) by repealing clauses (c) and (d);
- (c) in clause (g.1) by striking out “subsection 13(3)” and substituting “subsection 13(5)”;
- (d) in clause (h) by striking out “, including adjustments pursuant to section 15”;
- (e) by repealing clause (j); and
- (f) by repealing clauses (l) and (m).

(2) Clause 21(1.1)(a) is repealed and the following substituted:

“(a) delegating to the board the exercise, by way of making policy directions, of any of the powers set out in subsection (1) except the powers set out in clauses (1)(a), (f.1), (k), (n.1), (n.3), (n.4), (o) and (p)”.

(3) Subsection 21(2) is repealed and the following substituted:

“(2) A regulation made pursuant to this Act may be made retroactive to a date not earlier than August 1, 1986”.

S.S. 2013, c.30 repealed

19 *The Saskatchewan Pension Plan Amendment Act, 2013* is repealed.

Coming into force

20 This Act comes into force on proclamation.